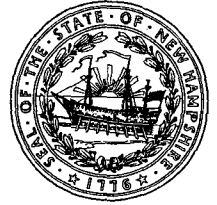




State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



Robert C. Senter, Sr., d/b/a/ Senter Bros., Inc.
PO Box 416
Plaistow, NH 03865

**ADMINISTRATIVE ORDER
No. WD 05-03**

February 15, 2005

Re: Wetlands Bureau File 2004-2912

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Robert C. Senter, Sr. d/b/a Senter Bros., Inc. pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services ("DES"), Water Division, is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Robert C. Senter, Sr. is an individual having a mailing address of PO Box 416, Plaistow, New Hampshire doing business as Senter Bros., Inc., a New Hampshire corporation currently not in good standing with the New Hampshire Secretary of State, having a mailing address of 22 Old Road Rear, PO Box 847, Plaistow, NH 03865.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 482-A, DES regulates dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "No person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
3. Pursuant to RSA 485-A:17, DES regulates significant alteration of terrain and erosion control through a permit program. Pursuant to RSA 485-A:6, VIII, the Commissioner has adopted Env.Ws 415 to implement this program.
4. Robert C. Senter, Sr. is the owner of real property located at 22 Old Road Rear, Plaistow, NH, more specifically referenced on Plaistow Tax Map 29 as Lot 40 (the "Property").

5. On December 2, 2004, DES personnel conducted an inspection on the subject property and adjacent properties to assess impacts for a proposed permit for construction of a public roadway. During this inspection, DES personnel observed approximately 6 contiguous acres of disturbed terrain. Within the disturbed area, DES observed a stream with collapsing side slopes and extensive sedimentation into wetlands.

6. On December 6, 2004, DES personnel inspected the property again and observed the following:

- a. Approximately 6.5 acres of contiguous terrain was disturbed through earthmoving activity. Several very large piles of unstabilized sand and soil were stockpiled on the property adjacent to a stream and wetlands. No erosion controls were observed anywhere on the Property.
- b. Within the disturbed area, approximately 320 linear feet of stream channel had been excavated. The slope of the western bank of the stream was vertical, unvegetated, and contained rills and gullies. The eastern bank of the stream was steeply sloped (approximately 1:1) vegetated but unstable, and contained rills that were transporting sediment to the stream channel.
- c. The bed of the stream channel contained deposits of sediment (fill). The sediment in the channel was between 1" and 6" deep and was evident for approximately 300 feet in the bed of the channel. Water was flowing in the channel of the stream. The stream flowed into a forested wetland.
- d. Approximately 1.3 acres of forested wetland was covered with sediment deposition. Of the 1.3 acres, approximately 22,000 square feet of sediment deposition is on an abutting property owned by Raymond T. Nickerson (the "Abutter").
- e. The edge of the forested wetland borders the Little River. Sediment was observed at the edge of the wetland and in the Little River in the form of deltas on both the Property and the Abutter's property.

7. During the December 6, 2004 inspection, DES personnel delineated the boundaries of the open disturbed areas and the stream and wetland areas that contained sediment deposition with Geographic Global Positioning ("GPS") units. Based on this delineation, DES found that 6.5 acres was disturbed through earthmoving activity.

8. Also on December 6, 2004, immediately after the inspection, DES personnel prepared a Field Inspection Report which noted that approximately 1+ acres of sediment had been deposited in a stream, wetlands and a river.

9. The Field Inspection Report also requested that:

- a. The Property be stabilized with erosion controls immediately;
- b. A certified wetland scientist ("CWS") be retained immediately to assist with site stabilization, drainage, and the preparation of a plan to restore the impacted stream, river, and wetlands.

10. Mr. Skip Senter arrived after the inspection. DES provided Mr. Senter with a copy of the Field Inspection Report.
11. Mr. Senter stated that he would take care of the problems and would keep DES informed of progress.
12. The Property and Abutter's property are adjacent to Conservation Land held by Rockingham Land Trust.
13. On December 8, 2004, Mr. Michael Seekamp, CWS., telephoned DES and indicated that he had been retained by Senter Bros., Inc.
14. On December 10, 2004, DES received written correspondence from Seekamp Environmental Consulting, Inc. indicating that it had been retained by Senter Bros., Inc. to assist with bringing the site into compliance.
15. On December 27, 2004, DES received written correspondence from Seekamp Environmental Consulting, Inc., indicating that temporary erosion controls were installed and also that Seekamp Environmental Consulting, Inc. is currently monitoring the progression of site stabilization and erosion controls.

D. DETERMINATION OF VIOLATIONS

1. Robert C. Senter, Sr. has violated RSA 482-A:3, I by excavating approximately 320 linear feet of a seasonal stream without a wetlands permit from DES.
2. Robert C. Senter, Sr. has violated RSA 482-A:3, I by filling approximately 300 linear feet of a seasonal stream channel without a wetlands permit from DES.
3. Robert C. Senter, Sr. has violated RSA 482-A:3 by filling 56,000 square feet of wetlands without a permit from DES.
4. Robert C. Senter, Sr. has violated RSA 485-A:17 by exceeding the scope of Site Specific Permit WPS-2984 by altering more than 100,000 additional square feet of terrain without a permit from the Department.

E. ORDER

Based on the above findings, DES hereby orders Robert C. Senter, Sr. as follows:

1. Immediately, and no later than February 20, 2005, stabilize all areas subject to erosion into jurisdiction. Where sediment deposition has occurred on abutting properties, obtain written permission from the abutter to enter, stabilize where necessary, and delineate the wetlands. Special attention should be given to the area of Little River.
2. By April 1, 2005, submit to DES for approval, a plan with dimensions, drawn to scale, prepared by a certified wetland scientist and stamped by a licensed surveyor which includes the following:

1. The delineated footprint of all wetlands, streams, and rivers on the Property as well as relevant wetland areas of abutting properties prior to disturbance. The delineation should be in accordance with Section F of the Corps of Engineers Wetlands Delineation Manual ("Section F");
 2. The delineated footprint of all disturbed areas in accordance with Section F;
 3. The area, in square feet, of disturbance on the Property and on abutting property(s);
 4. A plan for re-establishing the wetland to its original footprint;
 5. A proposed means of sediment and erosion control;
 6. A proposed schedule and restoration sequence listing equipment and methods for accomplishing restoration;
 7. A proposed planting plan for the re-establishment of any lost wetland vegetation;
 8. A monitoring and reporting schedule including an initial report to DES and at least two restoration progress assessment reports each after a full growing season.
3. Fully implement restoration as conditioned in a separate DES Restoration Approval Letter by June 30, 2004.
4. By February 28, 2005, for areas on the Property that have been disturbed in excess of Site Specific Permit WPS-2984, submit a stormwater and drainage management plan in accordance with RSA 485-A:17 and associated Rules Part Env-Ws 415.
5. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Arlene Allen, Compliance Specialist
DES Water Division
PO Box 95
Concord, NH 03302-0095
Fax: (603) 271-6588
e-mail: aallen@des.state.nh.us

F. APPEAL

Any person aggrieved by determinations D.1 – D.3 of this Order may request DES to reconsider the Order within 20 days of the date of the Order. The request for reconsideration must describe in detail each ground for the request. DES may grant a rehearing, if in its opinion, good cause is provided in the motion.

Filing an appeal or motion for reconsideration does not relieve Robert C. Senter, Sr. of the obligation to comply with the Order

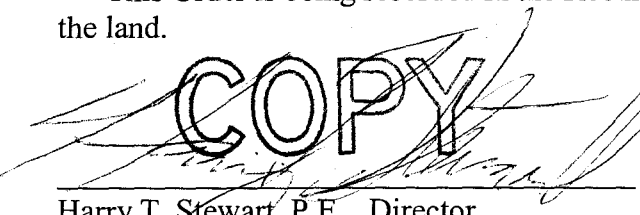
Any person aggrieved by determination D. 4 of this Order may appeal the Order to the New Hampshire Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>.

Appealing the Order or requesting reconsideration does not automatically relieve Robert C. Senter, Sr. of the obligation to comply with the Order.

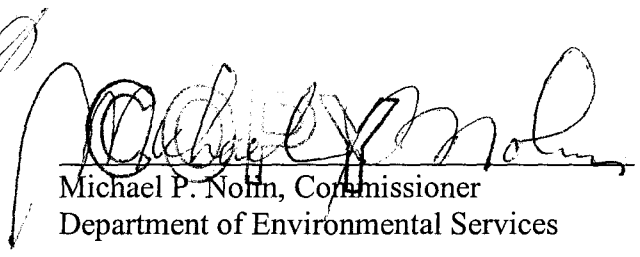
G. OTHER PROVISIONS

Please note that RSA 482-A RSA 485-A provide for administrative fines, civil penalties and criminal penalties for the violations noted in this Order, in particular ongoing erosion and stabilization requirements as well as for failing to comply with the Order itself. Robert C. Senter, Sr. remains obligated to comply with all applicable requirements.

This Order is being recorded in the Rockingham County Registry of Deeds so as to run with the land.


COPY

Harry T. Stewart, P.E., Director
Water Division



Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7004 0750 0001 2491 8369

cc: Gretchen Rule, DES Legal Unit ✓
Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Plaistow Conservation Commission
Plaistow Board of Selectmen
Rockingham County Registry of Deeds